

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

HECTOR MAYSONET-RONDON,  
**Plaintiff,**

v.

**Civil No. 09-1338 (ADC)**

COMMISSIONER OF SOCIAL  
SECURITY,  
**Defendant.**

**OPINION AND ORDER**

**A. Procedural History**

Plaintiff Héctor Maysonet-Rondón (“Rondón”) sought judicial review of the final decision of the defendant the Commissioner of Social Security (Commissioner) denying the application for entitlement to a period of disability and benefits.

Magistrate Judge Camille Vélez-Rivé issued a Report and Recommendation (“R & R”) on October 1, 2009 to which objections, if any, were to be filed by October 19, 2009. To date, no objections have been filed.

**B. Standard of Review**

A district court may refer pending motions to a magistrate-judge for a report and recommendation. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); L. Civ. R. 72(a). Any party adversely affected by the recommendation issued may file written objections within ten (10) days of being served with the report and recommendation. 28 U.S.C. § 636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of “those portions of the report or

specified proposed findings or recommendations to which specific objection is made." *Sylva v. Culebra Dive Shop*, 389 F. Supp. 2d 189, 191-92 (D.P.R. 2005) (citing *United States v. Raddatz*, 447 U.S. 667, 673 (1980)). Failure to comply with this rule may preclude further review by the district court and the court of appeals. *See Santiago v. Cannon U.S.A. Inc.*, 138 F.3d 1, 4 (1st Cir. 1998); *Davet v. Maccorone*, 973 F.2d 22, 30-31 (1st Cir. 1992). Similarly, a party objecting to a report and recommendation is "not entitled to a de novo review of an argument never raised" before the magistrate-judge. *Borden v. Sec. of Health and Human Svcs.*, 836 F.2d 4, 6 (1st Cir. 1987).

In conducting its review, the Court is free to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate-judge." 28 U.S.C. § 636 (a)(b)(1); *see also Templeman v. Cris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985); *Alamo- Rodríguez v. Pfizer Pharmaceuticals, Inc.*, 286 F. Supp. 2d 144, 146 (D.P.R. 2003). Hence, the Court may accept those parts of the report and recommendation to which the plaintiff does not object. *See Hernández-Mejías v. General Elec.*, 428 F. Supp. 2d 4, 6 (D.P.R. 2005) (citing *Lacedra v. Donald W. Wyatt Detention Facility*, 334 F. Supp. 2d 114, 125-26 (D.R.I. 2004)).

### **C. Conclusion**

Having conducted independent review of the record and no objections being filed, the court **ADOPTS** the Report and Recommendation.

Accordingly, the Commissioner decision is set aside, for it not being supported by substantial evidence on the record.

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The Clerk of Court will enter judgment accordingly.

**SO ORDERED.**

At San Juan, Puerto Rico, this 10<sup>th</sup> day of November, 2009.

**S/AIDA M. DELGADO-COLON**  
**United States District Judge**